

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 19-CR-176

DEREK A. LIEBERGEN,

Defendant.

**MOTION TO REQUEST FINAL PRETRIAL CONFERENCE BE
CONVERTED TO A *COUNSEL ONLY* STATUS CONFERENCE**

Derek A. Liebergen, by counsel, hereby requests that the Court convert the final pretrial conference currently set for December 4, 2019, at 11:00 a.m., to a *counsel only* status conference. As grounds, counsel submits the following:

1. Among other things, Mr. Liebergen, along with eight (8) other co-defendants, are all charged in an indictment with conspiracy to possess with intent to distribute more than 500 grams of methamphetamine, marijuana, and more than 100 grams of heroin in violation of 21 U.S.C. §§§ 846, 841(a)(1) and (b)(1)(A). Mr. Liebergen That means all nine (9) defendants face a mandatory minimum sentence of ten years in prison on that charge alone. Mr. Liebergen is also charged with possession of a firearm in furtherance of a drug trafficking crimes in violation of 18 U.S.C. §924(c)(1)(A)(i). That charge carries an additional five (5) years

consecutive to whatever sentence is ordered on the conspiracy count. That mean if convicted, Mr. Liebergen is facing a minimum fifteen (15) years in prison.

2. Mr. Liebergen is currently in custody at the Brown County Jail as he was ordered detained in this case.

3. More than 43 gigabytes of discovery (12 disks when copied) have been turned over in this case. That includes documents, audio recordings, video recordings, surveillance, and phone records. Counsel provided copies of discovery on disks to the jail for so Mr. Liebergen and other co-defendants detained there will have access to the discovery. Although counsel has reviewed a large portion of the discovery turned over, I have been unable to get through all of it to date. Furthermore, my client has not had sufficient time to get through it either so additional time is necessary to allow for that to happen.

4. Counsel has enough knowledge of the case to inform the court that Mr. Liebergen's case is likely to be resolved by way of a plea agreement. However, even for purposes of resolving the case short of trial, additional time is needed to work out details as to the terms of any potential plea agreement.

5. Counsel anticipates most of the other co-defendants in this case are in a similar situation to Mr. Liebergen. For that reason, counsel is requesting the final pretrial conference currently set for December 4, 2019, be converted to a *counsel only* status conference.

6. Counsel makes the request for counsel only based on concerns by the United States Marshals as to all defendants being present at the same place and time. Understanding there are separate orders in place and the likelihood that most, if not all, codefendants are in a similar situation, the interests of justice will still be met by a *counsel only* hearing.

7. Counsel communicated with Assistant United States Attorney William Roach and he has no objection to this request.

8. Counsel also communicated with all co-defendants' counsel in this case and the following indicated they join in this request:

<u>Defendant</u>	<u>Counsel</u>
Malachi Root	Michelle Jacobs
Kala Kennedy	Timothy Geary
Sally Miller	Lee D. Schuchart
Peter F. Thao	Thomas Wilmouth
Christopher S. Ullmer	Shane Brabazon
Jeremy Ludwig	Steven Richards

9. At the time of filing this motion, counsel had not received any response from Wayne Stilen's counsel, Martin Pruhs. Counsel did receive communicate with Jasmine Gillette's attorney, Thomas Erickson, who indicated he wanted to move forward with this case as currently scheduled.

THEREFORE, on the above grounds, Derek Liebergen respectfully requests that the court convert the December 4, 2019, final pretrial conference to a *counsel only* status conference.

Dated at Green Bay, Wisconsin, this 19th day of November, 2019.

Respectfully submitted,
s/ Krista Halla-Valdes
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